



**HISTORIC LANDMARK COMMISSION MEETING MINUTES
1st FLOOR, CITY COUNCIL CHAMBERS
CITY HALL BUILDING, 300 N. CAMPBELL
DECEMBER 16, 2013
4:00 P.M.**

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 1st Floor, City Hall Building, December 16, 2013, 4:00 p.m.

The following commissioners were present:

Chairman David Berchermann

Vice-Chairman Edgar Lopez (4:20pm)

Commissioner Beatriz Lucero

Commissioner Randy Brock

Commissioner Ricardo Fernandez

Commissioner John L. Moses

The following commissioners were not present:

Commissioner Cesar Gomez

Commissioner William C. Helm II

The following City staff members were present:

Ms. Providencia Velázquez, Historic Preservation Officer, City Development Department, Planning Division

Ms. Kristen Hamilton, Assistant City Attorney, City Attorney's Office

Chairman Berchermann called the meeting to order at 4:07 p.m., quorum present.

CHANGES TO THE AGENDA

None.

I. CALL TO THE PUBLIC – PUBLIC COMMENT

None.

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Oscar Leaser

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II. REGULAR AGENDA – DISCUSSION AND ACTION

Certificate of Appropriateness

1. **PHAP13-00033:** The east ½ of lot 28, plus all of lots 29-31 save and except a portion of lot 31, block 4, City of El Paso, El Paso County, Texas
- Location: 3257 Aurora Avenue
- Historic District: Austin Terrace
- Property Owner: Victor Duran
- Representative: Victor Duran
- Representative District: 2
- Existing Zoning: R-3/H (Residential/Historic)
- Year Built: 1953
- Historic Status: Non-contributing
- Request: Certificate of Appropriateness to modify a previously approved addition to include a gabled roof, changes to the approved façade, the replacement of a window and roof alteration after-the fact
- Application Filed: 11/7/13
- 45 Day Expiration: 12/22/13

Ms. Velázquez gave a presentation and noted the property owner sought approval for a Certificate of Appropriateness to modify a previously approved addition to include a gabled roof, changes to the approved façade, the replacement of a window and roof alteration after-the fact. The original request was presented to commissioners in March 2012. Construction was ongoing until approximately April 2013 when the contractor walked off the job and took the plans and permits with him. Per the presentation photos, Ms. Velázquez showed photos of the original structure as it existed in March 2012 and photos of the addition as it currently exists. Ms. Velázquez explained she had discussed the case with the inspector, Mr. Vincenzo Nuzzo; unfortunately, Mr. Nuzzo could not attend the meeting today. She read into the record a letter written by Mr. Nuzzo, to the property owner, letter dated 10/2/2012 (copy of letter on file). From that discussion, Mr. Nuzzo explained that when a property owner applies for a permit(s) for new construction, after all the plans are approved and construction begins, the property owner is required to call the Building Permits & Inspections Department and request an inspection to ensure that everything is in compliance. This property owner failed to call for an inspection.

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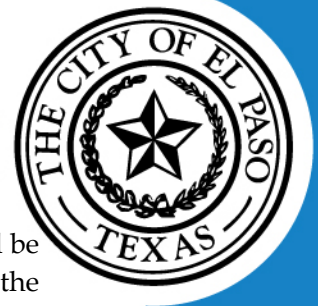
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Ms. Velázquez asked Mr. Nuzzo about the contractor that fled and what could be done. Mr. Nuzzo responded the property owner could file a claim against the contractor's bond and possibly get some of his money back.

PROPERTY OWNER'S TWO PROPOSALS – NEW

The property owner is proposing:

1. A fake parapet so that the gable roof would be located behind the parapet, on the original portion, to make it look more or less like it did originally. However, the property owner would like to keep the gabled roof on the remaining addition.
2. A similar parapet, with an asphalt roof, then another parapet with a barrel type roof projecting beyond it.

Ms. Velázquez stated this is a *non-contributing property*; however, *non-contributing* today might be *contributing* in the future. Furthermore, as the Historic Preservation Officer, Ms. Velázquez must enforce the rules and guidelines.

Ms. Velázquez was hesitant in recommending approval due to:

1. The guidelines do not permit this; and
2. This may set a precedent for other property owners within the district to do work without the necessary permit or approvals and ask for forgiveness later.

Chairman Berchelmann clarified that property owners are required to call for inspections. He then asked Ms. Velázquez to clarify the property owner's proposal regarding the parapet.

Ms. Velázquez concurred and added property owners are required to call for an inspection *at certain stages of construction*. Per the presentation photo of the original structure's façade and painted stucco portion, Ms. Velázquez explained the original façade and painted stucco portion had a flat roof and parapet. However, during the construction, the parapet was removed and the gable roof was added. Removing the original façade was never part of the original plans or permit approval process.

Chairman Berchelmann reiterated the property owner removed the window, in the original structure, and replaced it a window of a different style.

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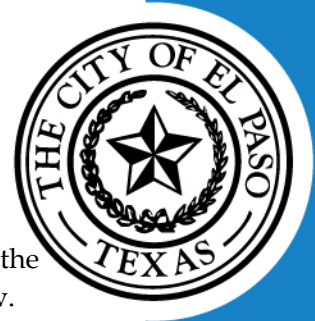
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Ms. Velázquez explained the one-over-one window, previously located in the original structure, was removed and replaced with a multi-light slider window.

Chairman Berchermann asked if the property owner had found a new contractor.

Ms. Velázquez responded no, the property owner would first like to get the approval from the HLC for the work that has been completed.

Commissioner Moses asked Ms. Velázquez to elaborate on the original contractor who fled the construction project.

Ms. Velázquez provided background information regarding said contractor. She understood that this was a bonded contractor, per the recommendation from Mr. Nuzzo. She added that it is the responsibility of the property owner to read the contract and verify whether the contractor would be responsible for acquiring the permits. She reiterated that her recommendation for approval, with the modifications listed, still stood to include the removal of the slider window and replacement of the original one-over-one window.

Commissioner Moses asked Ms. Velázquez if the footprint had changed.

Ms. Velázquez responded yes, because there is now a walkway that borders the addition and that walkway was not part of the original approved plans.

Mr. Luis Sariñana, former City Council Representative, representing the property owner, explained that as a former City Councilman he is accustomed to hearing stories about *fly by night contractors*.

FOR THE RECORD

Mr. Sariñana explained that the property owners, Mr. Victor Duran and his wife, had come from Mexico to El Paso to create a better life for his family. Mr. Sariñana understood that Mr. Duran hired a contractor for this project; additionally, Mr. Duran had also given some money and a truck to this contractor. The contractor told Mr. Duran that he would do the project for him. Mr. Sariñana also understood that Mr. Duran had drawn the original plans and that these plans were never submitted to the city. Mr. Sariñana stated he has spoken with city staff and Mr. Duran must get a permit for the new gable roof, due to way that it was constructed. Additionally, city staff is unsure whether the new roof meets City Code.

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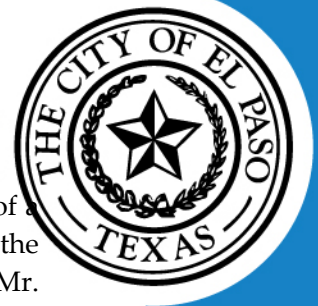
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Mr. Sariñana explained Ms. Velázquez mentioned she is requesting removal of a small piece of the roof; however, Mr. Duran has run out of money for the construction project as he gave it all away to the contractor that fled. It was Mr. Sariñana's feeling that the contractor that fled was not bonded because the contractor, and the truck, cannot be found. Mr. Sariñana requested Mr. Duran be permitted to build the parapet as shown in the drawing marked "Elevation 1" and install the clay tile shingle on the gable roof. Mr. Sariñana reiterated that Mr. Duran does not have any money to reconstruct the gable roof to a flat roof. Mr. Sariñana understood property owners are required to obey the rules and guidelines; however, there are properties with parapets, located within the same historic district that did not follow the rules and guidelines.

Chairman Berchelmann asked Mr. Sariñana who had drawn newly submitted "Elevation" plans.

Mr. Duran, through Mr. Sariñana, responded his brother had drawn the plans. Mr. Duran stated an engineer had drawn the original plans.

Chairman Berchelmann clarified the original plans showed a flat roof for the addition.

Mr. Sariñana stated the contractor constructed the addition with the gable, not flat, roof.

Chairman Berchelmann asked if Mr. Duran had continually monitored the construction project.

Mr. Duran explained he basically gave the plans to the contractor and that the contractor was to build the addition according to those plans.

Chairman Berchelmann asked if Mr. Duran had checked on the progress of the construction project, either daily or weekly.

Mr. Duran responded yes, he was present during the time of construction; however, when he noticed the new roof would not be flat but gable, Mr. Duran asked the contractor about it. The contractor told Mr. Duran not to worry about the roof because he (the contractor) had gone down to the City and received a permit for the gable roof. The contractor changed the style of the roof.

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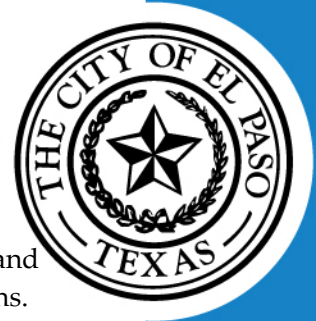
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Mr. Sariñana explained that Mr. Duran was not familiar with rules and guidelines and that he depended on the contractor to follow the approved plans.

Chairman Berchermann asked Mr. Duran why he let the contractor continue constructing the gable roof when the HLC approved plans clearly showed the flat roof. He wondered if Mr. Duran allowed the contractor to build the gable roof because Mr. Duran was not opposed to the gable roof.

Ms. Velázquez explained, if the plans were legally changed, they would have been routed through her office first.

Chairman Berchermann explained that Mr. Sariñana stated previously that no plans were submitted to the city.

Mr. Sariñana explained that a contractor drew up the plans. He guessed that the confusion was whether those plans were never approved or submitted to the city. Mr. Sariñana stated he did not know the whereabouts of those plans.

Mr. Duran stated the contractor took the plans with him when he fled.

Chairman Berchermann asked if Mr. Duran had researched the cost to build the parapet.

Mr. Duran responded yes, \$2,500.00

Ms. Velázquez read the following portion of the letter dated 10/2012 from Mr. Nuzzo to the property owner *"The work has progressed beyond the structural stage without having the required inspections approved."* and *"The architectural style of the structure differs from the approved plans."* To clarify, the original plans submitted by the property owner were approved by the HLC; however, new plans never were submitted.

Mr. Sariñana clarified that those were the plans that were never submitted to the city because the contractor fled with those plans. He stated it was the contractor who had modified the roof style without approval.

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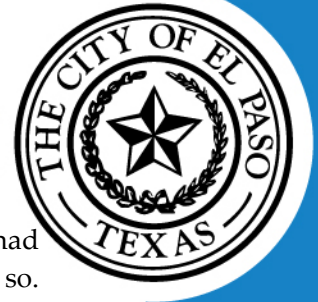
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Commissioner Lucero stated what she understood Mr. Duran to say that he had asked the contractor to construct the gable roof and the contractor did so. Commissioner Lucero surmised Mr. Duran negotiated with the contractor to change the roof style from flat to gable; therefore, Mr. Duran made the decision to not follow the previously approved plans. The property owner must take some responsibility.

Commissioner Lopez agreed; additionally, the contractor is not responsible for changing the plans because the property owner requested those changes. Again, the property owner is responsible for changing the plans as previously approved.

Mr. Sariñana explained that the contractor told Mr. Duran he (contractor) was given a permit by the city to change the roof style from flat to gable. He asked commissioners to approve the parapet that was proposed by Mr. Duran.

Commissioner Lopez suggested Mr. Duran attach a parapet to the entire front and side of the addition; the rear was not an issue. He explained what is important is the view of the addition from the street.

Ms. Velázquez felt Commissioner Lopez's suggestion was a very good. For clarification, Ms. Velázquez then read the following staff recommendations into the record:

- *New additions should be designed and constructed so that the character-defining features of the historic building are not radically changed, obscured, damaged or destroyed in the process of rehabilitation.*
- *Locate additions carefully so they do not damage or conceal significant building features or details.*
- *It is not appropriate to introduce an addition if it requires the removal of character-defining building features such as patios, mature vegetation or a detached structure.*
- *Design an addition so it is compatible in roof form, proportions, materials and details with the existing structure.*
- *Design an addition so that if removed in the future, the historic building's form and character defining features are not obscured, damaged, or destroyed.*
- *Do not change the style or construction of the roof.*

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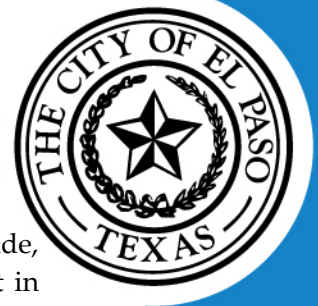
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Commissioner Lopez explained to continue the wall in the front and on the side, build a parapet. Furthermore, include scuppers within the parapet to assist in the removal of water from the gable roof. To achieve a consistent look on the front and side views, this will be the easiest and cheapest method.

Mr. Sariñana then explained Commissioner Lopez's suggestion to Mr. Duran. Following the explanation, Mr. Sariñana asked commissioners what the process was in order to complete this construction project.

Ms. Velázquez responded, due to the 45 day expiration date of the application (12/22/2013), commissioners must make a decision today. She clarified Commissioner Lopez's recommendation is to build a parapet along the entire front (Aurora Avenue) and side (Copia Street) façades but not along the rear façade of the structure (Lebanon Avenue). Ms. Velázquez reiterated, to hide the gable roof, the new parapet will be higher than the original.

Mr. Sariñana again explained the proposed suggestion to Mr. Duran. Mr. Sariñana asked if it would be permissible to leave the small overhang as it currently exists and add the clay tile there.

Ms. Velázquez responded no, that was not included in the plans originally approved by the commission. She reiterated the idea is to construct the addition per the plans originally approved by the commission. For Mr. Sariñana, Ms. Velázquez explained Commissioner Lopez's suggestion is to insert a parapet, across the front and side façade of the new addition, to hide the gable roof. There will not be any overhang.

Commissioner Lopez stated the intent is not to reconstruct the gable roof. He explained that the eave that does not belong will be removed; additionally, an approximately 36' long parapet, with gutters, will be constructed along the front and side façades. Commissioner Lopez explained Mr. Duran did not follow the plans originally approved by commissioners, yet, Mr. Duran is asking for forgiveness. To reiterate, Mr. Duran hired the contractor.

Commissioner Moses asked if the proposed suggestion by Commissioner Lopez was acceptable to Mr. Duran.

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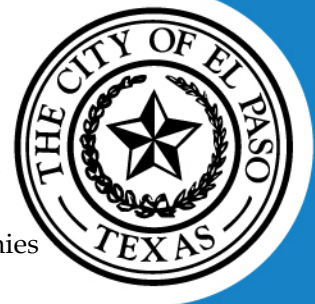
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Mr. Sariñana responded the proposed suggestion will cost additional monies that Mr. Duran does not have.

Ms. Velázquez explained that she spoke with Mr. Duran after the November HLC meeting. Mr. Duran informed Ms. Velázquez that it would be very expensive to replace and asked her for suggestions. Ms. Velázquez suggested Mr. Duran follow the staff recommendations to replace the roof and he could keep everything else. Mr. Duran informed Ms. Velázquez that replacing the roof would be too expensive and stated he would think of other options. She stated the suggestion from Commissioner Lopez was not one she had previously considered; however, the suggestion is very good, for this situation.

Chairman Berchermann explained there are reasons why commissioners approved the original plans as submitted. It is unfortunate that the contractor was misleading; however, that does not change what Ms. Velázquez and commissioners are tasked with.

DISCUSSION AMONGST COMMISSIONERS

Chairman Berchermann was in favor of the proposed suggestion because he felt it was a reasonable and fair compromise.

Commissioner Brock asked Ms. Velázquez if commissioners were going to enforce replacing the window on the original structure.

Ms. Velázquez would leave that decision to commissioners.

Commissioner Moses stated the alternative is to remove the gable roof.

Chairman Berchermann agreed and clarified Mr. Duran has two options:

1. Remove the gable roof and replace with a flat roof; or
2. Build the parapet along the front and side façades to resemble the originally approved addition.

Commissioner Lopez thought there may be a problem with windows being consistent with the original façade.

Ms. Velázquez explained the original windows, in the original structure, were one-over-one. She is not opposed to allowing Mr. Duran to maintain the windows on the addition as they currently exist. Additionally, the color of the original stucco will not change.

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MOTION:

Motion made by Commissioner Lopez, seconded by Commissioner Moses AND UNANIMOUSLY CARRIED TO APPROVE WITH THE CHANGES AS SUGGESTED:

1. Remove existing overhang and eave on the addition;
2. Construct parapet wall with parapet not to exceed existing gable roof on Aurora Avenue and Copia Street sides;
3. Install gutters to achieve drainage for the roof;
4. Property owner to submit elevation plans, to be approved by staff, prior to construction; and
5. Keep existing windows as is.

Following the vote, Chairman Berchermann explained Mr. Duran could appeal the commission's decision to the City Council.

Ms. Velázquez stated to appeal the commission's decision to the City Council will cost the applicants approximately \$320.00 and it is nonrefundable.

Mr. Sariñana asked if there was a timeframe to complete the construction. He added that Mr. Duran does not have funds to complete the construction project.

Ms. Velázquez responded Certificates of Appropriateness do not have an expiration date; however, building permits do expire.

Mr. Sariñana responded he and Mr. Duran would possibly begin early next year. Mr. Sariñana suggested Mr. Duran apply for City monies.

Chairman Berchermann requested Mr. Sariñana inquire whether the contractor that fled was bonded with the City.

2. Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. December 16, 2013 deadline for HLC members to request for agenda items to be scheduled for the January 6, 2014 meeting. January 6, 2014 deadline for HLC members to request for agenda items to be scheduled for the January 27, 2014 meeting.

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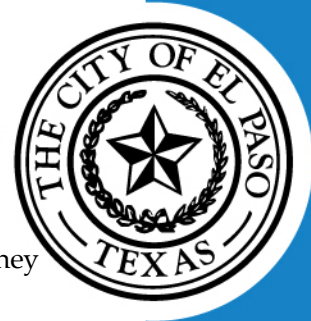
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Chairman Berchermann asked commissioners if they had addresses they would like staff to review or investigate.

UPDATE REGARDING THE PROPERTY LOCATED ON MILLS

Commissioner Fernandez asked Ms. Velázquez to update commissioners regarding the property at 112 Mills.

Ms. Velázquez explained this is a non-contributing property. The drawings, as submitted, showed there would not be any demolition or alteration of the existing façade; instead, a new storefront would be built over the existing. Because that request is within the guidelines, Ms. Velázquez approved this administratively. However, an issue arose as it appeared that the engineer/contractor had removed the original pink marble façade. However, after speaking with the engineer/contractor via telephone, rather than following the original plans which required painted glass behind, the engineer/contractor painted the masonry façade. At that time, further construction was halted. Staff explained that painting the masonry was not originally approved. The engineer/contractor then removed the paint and is currently completing the façade.

STATUS ON SAN JACINTO PLAZA

Chairman Berchermann asked Ms. Velázquez what the status was regarding construction on San Jacinto Plaza. He noted that, other than the sidewalks, no further construction has been done.

Ms. Velázquez understood the project was moving forward, perhaps the inclement weather has postponed further construction.

215 N. STANTON, MARTIN BUILDING, (LANE GADDY PROJECT)

Chairman Berchermann asked Ms. Velázquez to keep an eye on this project.

HLC Staff Report

3. Update on Administrative Review Cases since the last HLC meeting for the properties listed on the attachment posted with this agenda.

Chairman Berchermann asked commissioners if they had any comments and/or questions for staff. *There were none.*

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MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Brock AND UNANIMOUSLY CARRIED TO APPROVE THE ADMINISTRATIVE REVIEW STAFF REPORT.

Other Business

4. Approval of Regular Meeting Minutes for November 18, 2013.

THERE WERE NO MINUTES AVAILABLE TO APPROVE.

PRIOR TO ADJOURNING

Commissioner Moses asked staff what City Council's advice was to board and committee members with regard to speaking to the media outside official meeting settings.

Chairman Berchelmann referred to Dr. Bonart's, past EPWU-PSB Board Member, recent media interviews.

Ms. Velázquez noted she has never found this to be a problem with the HLC.

For the next HLC meeting, Ms. Hamilton asked commissioners if they would like her to have a presentation regarding ethics and rules for board members/commissioners.

Commissioner Moses asked if there may be any information specific to commissions because this came up in the Open Space Advisory Board as well.

Ms. Hamilton stated staff will place on item on the next HLC agenda to discuss ethics/rules specific to speaking to the media, each other, etc.

Commissioner Moses explained the question is whether individual commission members are supposed to speak their personal opinions in the media, as opposed to representing a board or commission.

Chairman Berchelmann asked staff to place an item *For Discussion* on the next HLC agenda, Dos and Don'ts, with perhaps a one-page handout.

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Commissioner Moses asked if there is an official city policy on this. He wondered if this might be something to complain about.

Ms. Hamilton responded there are ethics rules, etc.

Ms. Velázquez reiterated commissioners are requesting an item be placed on the next agenda regarding *"Discussion on ethics and policy on speaking on HLC matters outside meeting settings."*

As an annual agenda item, Chairman Berchermann stated having a presentation regarding on ethics city policy for board members/commissioners would be beneficial.

Commissioner Moses added these discussions may count towards continuing education credits for the HLC.

MOTION:

Motion made by Chairman Berchermann, seconded by Commissioner Moses AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 4:44 P.M.

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